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# The Evolving Role of the Prosecutor

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Over the last forty years, there has been a dramatic transformation and expansion of prosecutors' mission, to not only vigorously prosecute criminal cases, but also to engage in crime prevention, problem solving and community partnerships. Prosecutors' fundamental goal is to protect the community and ensure justice when enforcing the law. Traditionally, a prosecutor's role was a limited and relatively passive one - to evaluate and prosecute arrests made by the police.<sup>1</sup> That role has expanded and evolved significantly. The shift is driven by the need for more complex solutions that not only seek positive outcomes for victims, but also strive for long-term solutions for preventing crime and assisting those who are entangled in the criminal justice system.

Prosecutors are uniquely situated to be effective in carrying out these new initiatives. They play a pivotal role in the criminal justice system, making decisions and exercising discretion about whether to prosecute, whom to prosecute, and how to prosecute. Also, as leaders in law enforcement, prosecutors can work with the police and other partners to improve community relationships and to build trust in the criminal justice system.



1. Catherine M. Coles, *Evolving Strategies in 20<sup>th</sup>- Century American Prosecution*, in *THE CHANGING ROLE OF THE AMERICAN PROSECUTOR, 182-187* (John L. Worrall & M. Elaine Nugent-Borakov, eds., 2008).

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## The National Prosecutors' Consortium

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The National Prosecutors' Consortium (NPC) project is designed to collect information on innovative programs employed by prosecutor offices, to assist prosecutors in developing and deploy-

ing new programs, and to expand their research capabilities. The main areas of focus are the prevention of violent crime, community engagement, and encouraging victim/witness cooperation.

Many of the nation's prosecutors relish the opportunities presented by their expanded roles in the criminal justice system and have adopted innovative programs. However, the nature of their new initiatives is impacted by the size and resources of the organization. A large office with plentiful resources can implement multiple forward-thinking initiatives that impact a large segment of their population. Conversely, a smaller jurisdiction may only have the capacity to develop a smaller, yet still meaningful initiative.

Innovative programs described in this paper are newly developed initiatives undertaken by an office in keeping with its unique resources and the needs of its community. Ideas for new programs are freely shared amongst prosecutors and can nevertheless be innovative when they are introduced, implemented, and customized to suit the needs of a particular office. For instance, a program that would be considered innovative in a smaller office, may be more common-place in a larger office. We seek to highlight those offices that are embracing their new role by working within their capacity to bring effective and proactive programs to their communities.

As part of the NPC project, a prosecutor survey was administered during 2019 at the county level across the United States on a state-by-state basis. The survey captures baseline information about prosecutor offices and collects information about the various evolving and non-traditional aspects of a prosecutor's office, such as alternatives to incarceration, preventing violent crime, community outreach, victim/witness support, and treatment programs.



## Overview of Tennessee Prosecutor Programs

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Tennessee prosecutor offices range in size and in the types of communities that they serve. Some serve in large bustling cities like Memphis and others work in suburban districts or rural areas. The available resources and staff vary greatly between the offices, as does the needs of their communities.

Twenty-four judicial districts (77%) in Tennessee participated in the NPC survey. The survey demonstrates that the responding Tennessee prosecutors participate in a wide variety of programs and initiatives. These programs include Drug courts, Veterans' courts, Drug Treatment,

Anger Management programs, Victim and Witness assistance, Co-located Child Abuse programs and Youth Education initiatives.

The survey found that 92% of responding judicial districts engage in problem solving courts or other programs that offer alternatives to incarceration. Every office reported a Drug court and many offered Drug treatment (77%) and Anger management (77%) programs. Additionally, community service, training/education, and mental health services were offered in 73% of districts. All districts provided Victim and Witness Assistance, and many offered Victim services (79%) without arrest.

Community programs that prosecutors either run or participate in are also common. Tennessee prosecutors are involved with Co-located Child Abuse reduction programs (71%), Youth Education (67%), Co-located Domestic Violence reduction programs (54%), and Adult Education programs (46%).

2. Solomon, S. E., Uchida, C. D., Connor, C., Swatt, M. L., Revier, L., Quigley, A. M., Hock, S., & Barrera, V. (2019). National Prosecutors' Consortium Survey Highlights: Tennessee. Justice & Security Strategies, Inc.

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## Innovative Programs - Examples

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To demonstrate the variety of innovative programs initiated in Tennessee, three offices are highlighted: the 30<sup>th</sup> Judicial District, the largest county of the group containing Memphis, the 6<sup>th</sup> Judicial District, a mid-sized county with approximately 465,000 residents, and the 2<sup>nd</sup> Judicial District, the smallest of the group with almost 160,000 residents.

The 30<sup>th</sup> Judicial District runs multiple, robust truancy reduction programs, as well as a program that moves unlicensed driving offenses out of the criminal system. The 6<sup>th</sup> Judicial District runs a high school job shadow program that allows a small group of students to shadow prosecutors in court and learn about the criminal justice system. The 2<sup>nd</sup> Judicial District implements a Fatal Incident Response Support Team that works with law enforcement to train officers to respond jointly to serious and/or fatal motor vehicle crash scenes.

# 30th District Attorney General's Office

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Population: 935,764

Number of Prosecutors: 112 full-time prosecutors

## Truancy Reduction Programs and Unlicensed Driving Dismissal

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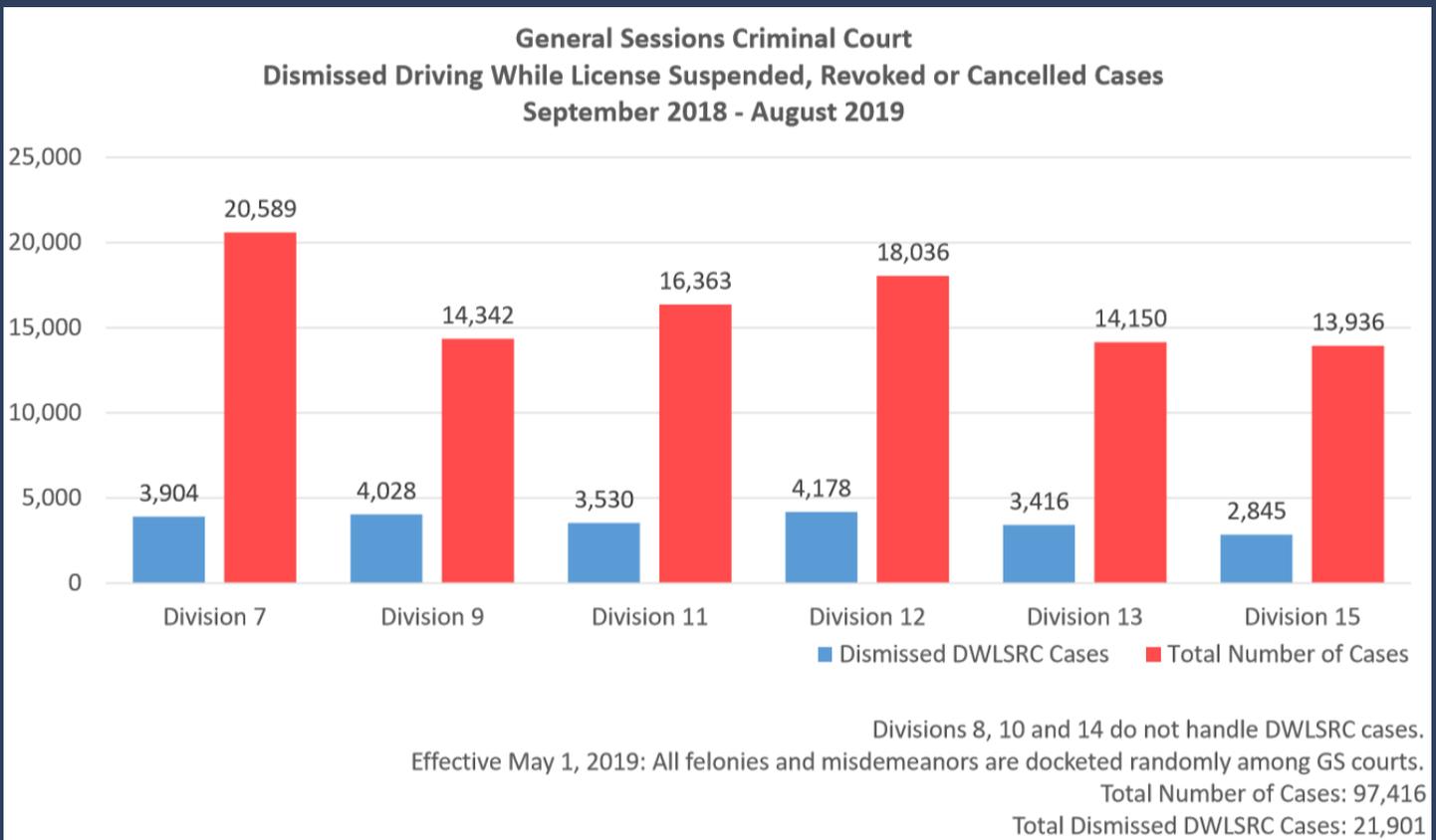
### **Moving Most Unlicensed Driving Cases Out of the Criminal System**

In 2018, the District Attorney's Office handled an estimated 25,000 unlicensed driver cases. Though quick to resolve, these cases comprised nearly a quarter of their annual caseload.

The cases were usually disposed of through the payment of a fine, and if that fine was unpaid, it could lead to incarceration and additional fines. The majority of the cases were from Memphis, which is a city with little public transportation and a high rate of poverty. Driving is often the only way Memphians can get to work or do other normal tasks of daily living. An arrest for unlicensed driving is particularly devastating for the poor who cannot pay the fine and can become trapped in a downward spiral as the fines mount, incarceration is imposed, and jobs are lost.

As an example of the impact of the new program, from September 2018 to August 2019, District Attorney Weirich dismissed 21,901 unlicensed driver cases pursuant to her policy that she will only prosecute unlicensed driving cases that are associated with serious aggravating circumstances,

such as cases involving injuries and death. A study of the new policy conducted by the District Attorney's Office demonstrates that there has been a significant reduction of workload in the General Session Court.



### Every DAY in School Program

Launched in 2006 and now operating in fourteen middle schools and sixteen elementary schools, this program provides support to students, parents, and schools to decrease habitual truancy, reduce student contact with the juvenile justice system, and reduce youth involvement in criminal activity and gangs. It identifies students who have been marked as habitually truant (absent five days without excuse) from school. Once identified, both the student and their parent or custodian are asked to enter a standard agreement with the District Attorney's Office in which they agree to be matched with, and cooperate with, a trained Every DAY in School mentor. The agreement is enforced by a court order in Juvenile Court.

Once assigned a mentor, the student is monitored and evaluated on their school attendance, performance and conduct, as well as their conduct at home and during any community service activities for at least one year. The mentor makes weekly contact with the student and ultimately deliv-

ers a final assessment of the student’s progress at the end of the mentoring engagement.

The program has seen positive results so far, as truancy rates continue to decline in many of the participating schools. The program has also seen significant growth — it now involves a total of thirty schools compared to just three at its inception.

Through the program, Shelby County students can also qualify for bikes if they maintain perfect attendance. Thus far, approximately 1,500 students have received a free bike, helmet, and t-shirt at one of the six annual bike giveaway events hosted by the District Attorney’s Office. In order to receive the bike, they must bring their perfect attendance record and letter of congratulations from District Attorney Weirich to the giveaway.

Many local businesses sponsor the bike program, including: All About Bikes, Chic-fil-A, FedEx, George and Bena Cates, Gibson Donuts, Hotel to Home, The Hyde Family Foundation, International Paper, Krispy Kreme Donuts, Meeman-Shelby Forest State Park, Memphis Hightailers Bicycle Club, Memphis Fire Department, Monogram Foods, Nucor Steel Memphis, Inc., Shelby County Schools, and Spectra Venue Management. Members of the Memphis Police Department’s Community Outreach Program (C.O.P.) also help with event logistics and organization and serve as volunteer mentors in the Every DAY in School Program.

### **Truancy Forgiveness Program**

The District Attorney’s Truancy Forgiveness Program allows parents of truant children to resolve court-related issues without fear of arrest. Under a partnership that includes the District Attorney’s Office, Shelby County Schools, and Shelby County Juvenile Court Probations, parents who attend this event are presented with an opportunity to enter into a diversion program with the District Attorney’s Office in lieu of prosecution. This programming is designed to support the parents while getting their children back in school. Upon successful completion of the program, the misdemeanor charges against the parents are dismissed.



# 6th District Attorney General's Office

Population: 465,289

Number of Prosecutors: 41 full-time prosecutors

## High School Job Shadow Program



A Knox County Assistant District Attorney speaks to high school students about a case.

Though the criminal justice system is frequently showcased in the media and entertainment industries, it is not always depicted accurately. In order to provide youth in Knox County with an understanding of the criminal justice system based in fact rather than fiction, the 6<sup>th</sup> Judicial District runs the High School Job Shadow Program. The program formally began three years ago and offers rising juniors a front row seat to a prosecutor's true pursuit of justice.

Students who demonstrate a strong interest in a career in criminal justice are selected to participate in the weeklong summer program. Approximately seven to ten students attend. The experience allows students the opportunity to shadow a variety of professionals in the District Attorney General's Office and learn about topics ranging from Criminal Justice 101 to white collar crime and human trafficking. Students also observe court proceedings, including trials. An exciting incentive of the program is that students can meet with prosecutors during and after trials to ask questions. Prosecutors explain why certain actions are taken during a trial, giving students unique insight into prosecutorial decision-making and justice system practices.

## 2nd District Attorney General's Office

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Population: 157,668

Number of Prosecutors: 17 full-time prosecutors

### Fatal Incident Response Support Team (FIRST)

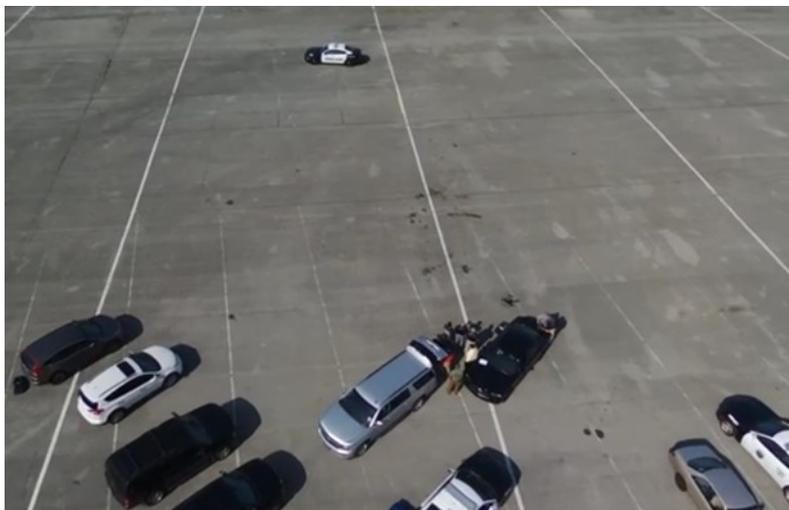
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FIRST is a cooperative effort between the District Attorney's Office, Sullivan County Tennessee Sheriff's Office, Kingsport Tennessee Police Department, and Bristol Tennessee Police Department to develop a team of trained officers (often crash scene reconstructionists) to respond jointly to motor vehicle crashes involving death or serious bodily injury. An Assistant District Attorney is always on call to answer officer questions, to respond to crash sites, and to assist in the preparation of search warrants. Both the Driving Under the Influence (DUI) Special Prosecutor and the DUI Investigator serve as integral members of FIRST.

To facilitate this effort, the city officers from the Bristol and Kingsport Police Departments are sworn in as Sullivan County Deputies and can assist outside of their respective municipal jurisdictions. This reduces the number of untrained officers at the scene while increasing motorist safety, as extra trained officers from nearby jurisdictions can assist with traffic control around the site of the crash.

The FIRST officers meet once a month at the District Attorney's Office along with the DUI Special Prosecutor, DUI Investigator, and other prosecutors. Meetings focus on training, legal updates, and reviews of active investigations. Members of FIRST generally provide the trainings, but also bring in guest speakers and/or trainers from time to time such as Tennessee Bureau of



The FIRST Team recently held a drone mapping and scene reconstruction training at Bristol Motor Speedway.

Investigation Crime Lab Special Agents and a Toxicologist from the Williams L. Jenkins Forensic Center Section of Toxicology.

The FIRST Team was recognized for their innovative work by National Highway Traffic Safety Administration (NHTSA). In 2006, NHTSA selected the Sullivan County FIRST Team as one of only three teams in the nation to be studied as NHTSA prepared a manual for the formation and operation of cooperative effort incident response teams such as the one in Sullivan County.

The FIRST Team continues to improve and evolve. The team is using new technology to enhance their investigations. The members of the FIRST Team were recently trained on the use of drones, and their capability for assisting with mapping and scene reconstruction. Two agencies, Bristol and Kingsport, have drones with mapping and reconstruction capabilities that can be used by the FIRST Team.